



STAFF REPORT

ITEM NO. 5

DATE: DECEMBER 4, 2012
TO: HONORABLE MAYOR AND CITY COUNCIL
COLTON UTILITY AUTHORITY BOARD
FROM: ROD FOSTER, CITY MANAGER & EXECUTIVE DIRECTOR *R. Foster*
PREPARED BY: AMER JAKHER, P.E., PUBLIC WORKS DIRECTOR *AJ*
SUBJECT: FIRST AMENDMENT TO SARI DISCHARGE AGREEMENT

RECOMMENDED ACTION

It is recommended that the City Council approve the attached First Amendment to the SARI Discharge Agreement for the funding of ongoing maintenance for the brine line, and authorize the City Manager to execute the First Amendment with any non-substantive revisions approved by the City Attorney.

It is recommended that the Colton Utility Authority Board (CUA) review, ratify and to the extent necessary direct that the City Council take the above action(s).

GOAL STATEMENT

The proposed action will support the City's goal to improve the City's Wastewater Treatment infrastructure.

BACKGROUND

In 1993, the Santa Ana Watershed Project Authority (SAWPA) constructed the Santa Ana Regional Interceptor (SARI) pipeline for the transmission of industrial wastewater (sometimes referred to herein as the "Brine Line"), and by an agreement dated on or about June 22, 1993 allocated a certain amount of SARI pipeline capacity to the San Bernardino Valley Municipal Water District (SBVMWD). SBVMWD and the City of Colton (City) also entered into a SARI Discharge Agreement on or about June 21, 1993 ("Discharge Agreement"), whereby the City agreed to purchase from SBVMWD 2.0 MGD of the SARI pipeline capacity based upon the terms and conditions of the June 22, 1993 agreement between SBVMWD and SAWPA. Other agencies have similar agreements with SBVMWD.

SAWPA invoices SBVMWD for all capacity right obligations, and SBVMWD in turn invoices the capacity owners, such as the City, for their share of the capacity obligation.

ISSUES/ANALYSIS

FIRST AMENDMENT – 2006 SAWPA READINESS TO SERVE FEE

In 2006, SAWPA adopted a new fee structure for the Brine Line, which requires all capacity owners to pay additional fixed charges for the maintenance of the pipeline system, regardless of whether a capacity owner actually discharges into the Brine Line (“Readiness to Serve Fee”). However, while SBVMWD has until this year paid this Readiness to Serve Fee on behalf of all capacity users, it has not invoiced the City for its portion.

As of July 1, 2012, SBVMWD has indicated that it will no longer pay the City’s portion of the Readiness to Serve Fee upfront, and will instead invoice the City for this fee along with any other fees due and owing by the City. However, based on the valued partnership between the agencies and the regional significance of the Brine Line, SBVMWD has agreed to waive the City’s past due amount and not seek reimbursement for FY 2006-07 through FY 2011-12 Readiness to Serve Fee, in exchange for the City agreeing to execute an amendment to the SARI Discharge Agreement to make it clear that the City will pay these costs on a going forward basis.

SBVMWD and the City, therefore, desire to amend the SARI Discharge Agreement, effective July 1, 2012, to reflect and clarify the City’s obligation to pay all fees and costs imposed by SAWPA for use of the Brine Line. The attached First Amendment accomplishes this.

EXPIRATION OF CAPACITY PURCHASE - ONGOING SAVINGS

According to Section 1 and Exhibit “B” of the Discharge Agreement, the payment associated with the City’s capacity right in the Brine Line was \$365,000 per year over a 20 year period, commencing on June 30, 1993 and ending on June 30, 2012.

According to Section 1 of SAWPA Resolution 2012-06, the City’s Readiness to Serve Fee for FY 2012-13 is calculated at \$4,083 per MGD per month. Of the City’s 2.0 MGD, the City is charged for 1.938 MGD and RIX is charged for .062 MGD. Accordingly, the City’s Readiness to Serve Fee is \$7,912 per month ($1.938 \text{ MGD} \times \$4,083 = \$7,912$) or \$94,954 per year.

FISCAL IMPACTS

In 2012, the City fulfilled its 20 annual discharge capacity principal payments of \$365,000. In FY 2012-2013, the annual Readiness to Serve Fee for the SARI line will be \$94,954. This represents a cost savings of \$270,046 for FY 2012-13. SAWPA anticipates that in future years the annual Readiness to Serve Fee for the City will be approximately \$100,000 to \$110,000, so the “budgeted” savings would be somewhat less in future fiscal years.

ALTERNATIVES

1. Provide alternative direction to staff.

ATTACHMENTS

1. Exhibit A – SARI Discharge Agreement
2. Exhibit B – SAWPA Rates – Resolution 2012-06

Attachment “A”

SARI Discharge Agreement

FIRST AMENDMENT TO THE SARI DISCHARGE AGREEMENT

This First Amendment to the SARI Discharge Agreement ("Amendment") is executed and deemed effective October 2, 2012, by and between the San Bernardino Valley Municipal Water District, a California municipal water district ("VALLEY DISTRICT") and the City of Colton (the "City").

RECITALS

A. VALLEY DISTRICT and the City entered into that certain SARI Discharge Agreement dated June 21, 1993 ("Discharge Agreement"), whereby the City agreed, among other things, to purchase from VALLEY DISTRICT a discharge right allocation for the discharge of a specified amount of industrial waste water into the Santa Ana Regional Interceptor (formerly the "SARI", and currently referred to as the "Brine Line"), system based upon the terms and conditions of a SARI Capacity Agreement ("SARI Capacity Agreement") between VALLEY DISTRICT and the Santa Ana Watershed Project Authority ("SAWPA"), dated June 22, 1993.

B. The fees and costs associated with the City's right to discharge wastewater into the Brine Line system, which fees and costs are adjusted from time to time, are established by SAWPA through Resolutions.

C. SAWPA invoices VALLEY DISTRICT for the fees and costs to discharge wastewater into the Brine Line system based upon the amount of capacity owned and sold to capacity owners in the VALLEY DISTRICT service area. VALLEY DISTRICT, in turn, invoices the capacity owners, such as City, for their share of these fees and costs.

D. In 2006, SAWPA adopted a new fee structure for the Brine Line which requires all capacity owners to pay additional fixed charges for the maintenance of the pipeline system, regardless of whether a capacity owner is discharging into the Brine Line. To date, the City's portion of these fixed fees have been paid by Valley District.

E. On July 1, 2012, Valley District will cease payment of the City's portion of the fixed charges and will begin to invoice City for these fixed fees along with any other fees and costs related to the discharge of wastewater into the Brine Line system.

F. VALLEY DISTRICT and the City desire to amend the Discharge Agreement to reflect and clarify the City's obligation to pay all fees and costs imposed by SAWPA for use of the Brine Line.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of mutual covenants contained herein and other valuable consideration, the Parties hereby agree as follows:

1. Incorporation of Recitals. The Recitals set forth above are incorporated herein and by this reference made a part of this Amendment.

2. Definitions. The definitions in the Discharge Agreement shall apply to this Amendment unless otherwise provided herein.

3. Other Costs. Section 4 of the Discharge Agreement is hereby amended to include the following provisions, which shall be inserted after the final sentence of Section 4:

“CITY agrees to satisfy any and all other payment obligations for other costs imposed by SAWPA related to the use of the SARI system, including without limitation any and all fees or costs related to maintenance, operations and repairs. The payment obligation for any and all such fees shall be fully satisfied without regard to whether any discharge, treatment or disposal right is exercised.”

4. Amendment to Prevail. The provisions of this Amendment shall prevail over any inconsistent or conflicting provisions of the Discharge Agreement and shall supplement the remaining provisions thereof. Except as herein expressly modified and amended, all terms and provisions of the Discharge Agreement shall remain in full force and effect.

5. Counterparts. This Amendment may be executed separately in counterpart by each party and when all of the separately executed counterpart signature pages have been attached in a single instrument, the same shall constitute a fully executed counterpart of this Amendment.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the day and year first above written.

VALLEY DISTRICT:

San Bernardino Valley Municipal Water Distract,
a California municipal water district

By: _____

Name: _____

Its: _____

CITY:

The City of Colton

By: _____

Name: _____

Its: _____

Attest:

Name: _____
City Clerk

Approved As To Form:

Name: _____
City Attorney

Attachment “B”

SARI Resolution No.2012-06

RESOLUTION NO. 2012-06

**A RESOLUTION OF THE COMMISSION OF THE
SANTA ANA WATERSHED PROJECT AUTHORITY
ESTABLISHING THE RATES (FOR THE TREATMENT AND DISPOSAL OF
NON-RECLAIMABLE WASTEWATER, TEMPORARY DOMESTIC WASTEWATER,
COLLECTION STATION DISCHARGES, AND CHARGES FOR SUSPENDED SOLIDS
AND BIOCHEMICAL OXYGEN DEMAND) IN THE
INLAND EMPIRE BRINE LINE (BRINE LINE)**

WHEREAS, the Santa Ana Watershed Project Authority (hereafter "SAWPA") has constructed the Inland Empire Brine Line (Brine Line, also known as the Santa Ana Regional Interceptor) for the treatment and disposal of non-reclaimable wastewater, temporary domestic wastewater, and collection station discharges;

WHEREAS, the best and highest use of the Brine Line is the export of salt with the ultimate goal of achieving watershed "salt balance" and requires maximum utilization of the Brine Line;

WHEREAS, SAWPA's vision is to maintain and operate the Brine Line as efficiently as possible, collect charges from SAWPA's Member Agencies ("dischargers") for the treatment and disposal of non-reclaimable wastewater, temporary domestic wastewater, and collection station discharges, including charges for the discharge of total suspended solids ("TSS") and biochemical oxygen demand ("BOD");

WHEREAS, it is the policy of the Commission to accurately and equitably allocate costs to those who generate the costs;

WHEREAS, SAWPA has implemented a rate structure using a characteristics-based rate that results in a "pass-through" of charges for Flow, BOD, and TSS from the Orange County Sanitation District ("OCSD");

WHEREAS, SAWPA will make an adjustment to the flow measured at each discharge site if the total flow at meter S-01, located at the Orange County line, is higher than the aggregate of all dischargers;

WHEREAS, OCSD charges and other factors affecting the rate are outside SAWPA's control, and it is the intention of the Commission that staff review the rates, propose modifications as necessary, and seek approval of any modifications prior to the beginning of each fiscal year;

WHEREAS, the sampling and monitoring fee policy allows recovery of all SAWPA costs related to sampling and monitoring of discharges;

WHEREAS, SAWPA is implementing a planned 20-year capital improvement program for the long-term repair and replacement of the Brine Line and is funding a 25% operating reserve for the Brine Line, all of which are intended to ensure the long-term reliability of the Brine Line;

WHEREAS, long-term system reliability is beneficial to the Brine Line, SAWPA has included debt repayment, long-term replacement, and operating reserve components in the rate structure;

WHEREAS, the rates for collection station discharge rates, permit fees, and lease rates are derived from the same rate structure and inclusion in this resolution provide clarity;

WHEREAS, a Peaking or Emergency Rate and two fixed charge components are included consistent with the adoption of Resolution No. 461 establishing SAWPA's fee for service business model;

WHEREAS, some dischargers may from time-to-time fall below economical billing levels, a minimum charge is included;

WHEREAS, "Fiscal Year" means the period beginning July 1 of each year and ending June 30 of the following year for purposes of initiating a new rate period;

WHEREAS, SAWPA is conducting a solids control study to reduce the formation of TSS within the pipeline and has used a formula since July 1, 2007 to distribute the additional loads created within the pipeline. The total TSS load is measured at the Orange County line and allocated to dischargers based on the individual discharger's direct and indirect contribution to the total load;

WHEREAS, SAWPA has completed closed-circuit television inspection of the gravity flow portion of the system and found significant accumulation of material throughout most of the pipeline. Pipeline cleaning in these areas is required on a recurring basis. The cost for pipeline cleaning is included in the Flow charge; and

WHEREAS, a surcharge for Flow, BOD, and TSS treatment and disposal capacity is applicable when discharge quantities exceed owned capacity; and

WHEREAS, establishment of a rate stabilization fund will be considered in the future to mitigate the impact of larger cost increases.

NOW, THEREFORE, BE IT RESOLVED that the Commission of the Santa Ana Watershed Project Authority hereby resolves that:

1. Effective July 1, 2012, the treatment and volumetric user charges paid to SAWPA for treatment and disposal of non-reclaimable and temporary domestic wastewater shall be as follows, with a minimum charge of \$150.00 for the flow component:

<u>Fiscal Year</u>	<u>Flow/MGD</u> <u>(a)</u>	<u>BOD/</u> <u>1,000 lbs.</u> <u>(b)</u>	<u>TSS/</u> <u>1,000 lbs.</u> <u>(c)</u>	<u>Fixed</u> <u>Pipe</u> <u>(d)</u>	<u>Fixed</u> <u>Treatment</u> <u>(e)</u>
2012-13	\$794	\$253	\$376	\$4,083	\$8,749
2013-14 (f)	\$736	\$266	\$395	\$4,870	\$9,875

- (a) This component shall be calculated and assessed per gallon (i.e., \$0.000794 in FY 2012-13) of discharge (flow) to the Brine Line each month. The flow charge is comprised of an OCSD "Pass-Through" flow charge as well as an internal SAWPA flow charge.
- (b) This component shall be calculated and assessed per pound (i.e., \$0.253 in FY 2012-13) of dry weight of BOD calculated from the average of sample results each month.

- (c) This component shall be calculated and assessed per pound (i.e., \$0.376 in FY 2012-13) of dry weight of TSS calculated from the average of sample results each month.
 - (d) This component for fixed costs (also known as Readiness to Serve) shall be assessed per MGD of owned pipeline/connection capacity per month.
 - (e) This component for fixed costs shall be assessed per MGD of owned treatment and disposal capacity per month.
 - (f) Future rates are for planning purposes only. The Commission will separately evaluate and set the rates annually for each FY.
2. Total flow for each discharger will be adjusted if flows at meter S-01 are higher than the aggregate of all the discharger flows.
 3. Actual OCSD charges for Flow, BOD, and TSS shall be "passed through" to dischargers after a 60-day notice.
 4. A sampling surcharge shall be applied to all BOD and TSS dischargers to account for the actual cost of necessary sampling and shall be assessed to all dischargers. Increased sampling is defined as any and all costs in excess of one sample per month. Increased sampling shall be determined solely by SAWPA and billed monthly. High BOD, TSS, or high variability dischargers will be sampled weekly or more frequently as required, and low BOD/TSS or low variability dischargers will be sampled monthly or quarterly as required to obtain reliable data.
 5. SAWPA will continue to measure BOD and TSS entering and exiting the system. Should a difference in BOD and TSS exist between the total of all dischargers and the SAWPA discharge to OCSD, the strength values for each discharger will be adjusted to fully allocate the SAWPA discharge to OCSD. This adjusted strength will be used for determining discharger invoice amounts.
 6. The annual permit fee for each directly connected discharger shall be not less than \$500; additional permit fees may be charged for speculative or special permit work to cover actual costs and administration as determined by the SAWPA General Manager. The fee for a Liquid Waste Hauler permit shall be not less than \$200.
 7. Truck-delivered non-reclaimable wastewater discharges from sources within the Santa Ana River watershed at SAWPA-authorized collection stations shall be charged based on the strength of the waste discharged. Waste shall be charged \$0.010 per gallon of waste discharged to the Brine Line for Brine discharge (less than 100 milligrams per liter (mg/l) average concentration for BOD and TSS), \$0.015 per gallon of waste discharged to the Brine Line for Non-Brine Tier 1 discharge (concentration of BOD and/or TSS between 100 and 999 mg/l), and \$0.030 per gallon of waste discharged to the Brine Line for Non-Brine Tier 2 discharge (concentration of BOD and/or TSS between 1,000 and 2,499 mg/l). The applicable Tier rate is established by the higher concentration value for BOD or TSS. Discharges with BOD and/or TSS concentrations equal to or over 2,500 mg/l (Non-Brine Tier 3) shall be charged based on the measured strength for each load as defined by Note (b). Current and future estimated rates are shown below. All permitting, permit fees, monitoring, labor, and other costs are the responsibility of the member agency providing the service.

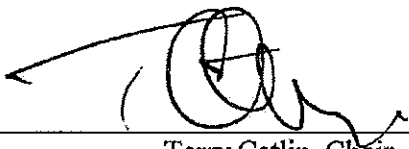
Waste Strength	BOD or TSS Concentration	FY 2012-13	FY 2013-14 (a)
Brine	Less than 100 mg/l	\$0.010	\$0.010
Non Brine Tier 1	100 to 999 mg/l	\$0.015	\$0.015
Non Brine Tier 2	1,000 to 2,499 mg/l	\$0.030	\$0.031
Non Brine Tier 3	2,500 and higher	(b)	

- (a) Future rate for planning purposes only. The Commission will separately evaluate and set the rates annually for each FY.
- (b) Concentrations over 2,500 mg/l will be charged based on the actual concentration of the waste discharged using the following costs components: \$0.0026/gallon, \$0.645/pound of BOD, and \$0.617/pound of TSS.
8. If approved in the future by the Commission, truck-delivered non-reclaimable wastewater discharges from outside the Santa Ana River Watershed at SAWPA-authorized collection stations, shall be charged a surcharge of 10% on waste discharged to the Brine Line. This surcharge will be added to the rates indicated in paragraph 7 and represents the administrative costs associated with serving these customers. All permitting, monitoring, labor, and other costs are the responsibility of the Member Agency providing the service. Discharges from sources outside the watershed also shall require specific Commission approval.
9. An Emergency Rate shall be charged for standby discharges. The Emergency Rate shall be comprised of 110% of the surcharges in Paragraph 10, plus 110% of the Flow, BOD, and TSS charges in Paragraph 1. Surcharges shall be assessed for discharges in excess of the owned capacity, subject to General Manager's approval.
10. A treatment and disposal surcharge shall be charged when contractually owned capacity for BOD, TSS, and/or Flow is exceeded in any given month. Rates shall be \$0.3923 per pound BOD, \$0.2405 per pound TSS, and \$0.0020 per gallon Flow. These charges are in addition to the charges for Flow, BOD, and TSS outlined in Paragraph 1.
11. The provisions of SAWPA Ordinance No. 6 and any amendments or successors thereto, are hereby incorporated by this reference, as though set forth herein in full.
12. Payment of invoices not made within 45 days of the invoice date shall bear interest at a rate of one (1.0%) per month from the date of invoice.
13. The user's charges and surcharges established by this Resolution are effective July 1, 2012, and Resolution No. 2011-10 is rescinded once this Resolution takes effect.

ADOPTED THIS 15th day of May, 2012

SANTA ANA WATERSHED PROJECT AUTHORITY

BY:


Terry Catlin, Chair